

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

JESUS BENITEZ-TORRES

Defendant-Movant.

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Cr. No. C-01-249 (1)
C.A. No. C-05-181

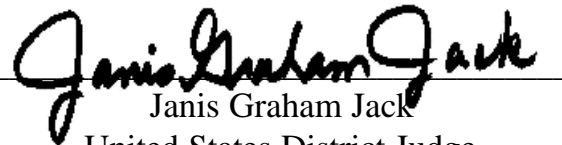
ORDER

Pending before the Court is Defendant Jesus Benitez-Torres' ("Torres" or "Appellant") motion to proceed *in forma pauperis* on appeal from this Court's denial of his motion under 28 U.S.C. § 2255. (D.E. 191). The Court had previously ordered that Torres provide additional information to the Court regarding his financial status. (D.E. 192). On June 20, 2006, Torres filed a second motion to proceed *ifp* containing additional information. (D.E. 193). His motions to proceed *ifp* are now ripe and are pending before the Court.

The *ifp* application submitted by Torres indicates that he has no income, other than that he receives from prison employment, which is \$ 5.25 per month. He also receives money from his family, usually \$50.00, "every now and then." (D.E. 193 at 2). He has no other substantial assets. The inmate account reflects that, at the time of his motion, his account balance was \$.77. In the six months preceding his application, his average daily balance was \$11.75. According to this information, the Court concludes that Torres cannot pay the \$255 appellate filing fee without undue

hardship.¹ His motions to proceed on appeal *in forma pauperis* (D.E. 191, 193) are therefore GRANTED.

It is ORDERED this 3rd day of July, 2006.


Janis Graham Jack
United States District Judge

¹ Although appellate filing fees are now \$455, the increased fees apply only to cases filed on or after April 9, 2006. Because Torres filed his notice of appeal prior to April 9, 2006, the filing fee for his appeal is \$255.